

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 1997)

Docket No. R97-1

OFFICE OF THE CONSUMER ADVOCATE
RESPONSE TO NOTICE OF INQUIRY NO. 1
ON INTERPRETATION OF COMMISSION RULES AUTHORIZING
THE USE OF LIBRARY REFERENCES
(October 3, 1997)

I. INTRODUCTION

In its Notice of Inquiry No. 1 (NOI) issued September 17, 1997, the Commission asked for comments on the following specific issues:¹

1. Has the Service filed other material in this case as a library reference that does not appear to qualify for that designation under a reasonable interpretation of applicable Commission rules?
2. If the answer to No. 1 is affirmative,
 - a. what numerical designation and title has the Service assigned the material; and
 - b. to what specific proposal does it relate?
3. Are any revisions to the Commission's rules needed to address practices that have evolved with respect to library references?

In expressing its concerns, the Commission stated: "The motion practice also raises related questions of sponsorship of the material, the timing of such sponsorship,

¹ NOI at 2-3.

and the appropriateness of “institutional responses” to interrogatories related to material in a library reference.”²

In addition, participants also were “invited to submit memoranda addressing the legal ramifications raised by the Service’s interpretation of the Commission’s rules on this matter. Comments and/or memoranda addressing the questions listed below, related concerns, or legal issues should be filed by October 3, 1997.”³

In its comments herein, OCA will address questions of appropriate sponsorship of material, the timing of such sponsorship, and the appropriateness of “institutional” responses to interrogatories related to material in a library reference.

However, OCA emphasizes, the horse is largely out of the barn. Discovery directed to the Postal Service is almost over and cross-examination of witnesses presenting the Postal Service’s direct case is about to commence. OCA discovery, and, perhaps, that of other participants, has been hampered by a number of discovery problems, including those associated with library references and unsponsored institutional responses. Formulating questions for cross-examination has been extremely difficult because of the need to puzzle through a maze of fragmented testimony, and unsponsored library references and institutional responses.

II. PURPOSE OF DISCOVERY

Perhaps answering the fundamental question -- “What is the purpose of discovery?” -- will enlighten the debate over library references. Before modern

² Id. at 2.

³ Id.

discovery, each side was protected to a large extent against disclosure of its case under the "philosophy that a judicial proceeding was a battle of wits rather than a search for the truth"⁴ As the Supreme Court has noted:⁵

The various instruments of discovery now serve (1) as a device, along with the pre-trial hearing under Rule 16, to narrow and clarify the basic issues between the parties, and (2) as a device for ascertaining the facts, or information as to the existence or whereabouts of facts, relative to those issues. Thus civil trials in the federal courts no longer need be carried on in the dark. The way is now clear, consistent with recognized privileges, for the parties *to obtain the fullest possible knowledge of the issues and facts before trial.* [emphasis added.]

OCA believes that the Commission's actions with regard to library references and institutional responses should be guided by these goals: to enable all parties to ascertain necessary facts and narrow issues in a way that will expedite hearings and enable the parties to contribute more meaningfully to the Commission's hearings. Below we propose various ways to deal with the problems we perceive with library references and institutional responses as they have been submitted and used by the Postal Service in recent proceedings.

The proper use of library references and institutional responses is essential to the due process of parties in Commission rate proceedings. We therefore incorporate by reference herein our due process arguments from RM97-1.⁶ Briefly restating those arguments, Congress determined when creating the Commission that there be

⁴ Wright, Miller & Marcus, 8 Federal Practice and Procedure, at 40.

⁵ Hickman v. Taylor, 329 U.S. 495, 500 (1947).

⁶ Docket No. RM97-1, Comments of the Consumer Advocate to the Postal Rate Commission, filed January 31, 1997.

objective decisionmaking based on full, open and fair proceedings.⁷ Congressional intent would be frustrated if public participants were unable during discovery to assess in timely fashion the Postal Service's data underlying its witnesses' presentations.⁸ On the other hand, an efficient discovery process will promote the Congressional intention for expedited proceedings.⁹ A discovery process that permits obstructionism through, *inter alia*, the improper use of library references and institutional responses is contrary to those goals.

III. LIBRARY REFERENCE ISSUES

A. DEFINING "SPONSORSHIP"

An overlooked but important issue is how one defines "sponsorship." Webster's New Collegiate Dictionary defines sponsorship¹⁰ in terms of "one who assumes responsibility for some other person or thing." OCA believes the correct interpretation of that word in the context of library references relates simply to "accepting responsibility for," i.e., someone able to explain the evidence. It does *not necessarily* mean requiring the sponsor (and the participant on whose behalf the sponsor is testifying) to adopt the findings and facts in the library reference as part of its litigating position.

⁷ *Id.* at 12-13.

⁸ *Id.* at 14.

⁹ *Id.* at 16-18.

¹⁰ Outside the religious notion of sponsorship, as at baptism.

This is consistent with a prior Commission ruling on "sponsorship." In Order No. 772¹¹ the Commission ruled on a motion to compel the Postal Service to produce a witness to sponsor a consultant's (Price Waterhouse) study. The Commission ordered the Postal Service to produce a witness to sponsor and stand cross-examination on factual portions of the consultant's study.

The Commission stated that the Postal Service's argument that the factual material in the study was freely available to the parties for their expert witnesses to examine overlooked "the rules of evidence that forbid acceptance of evidence into the record unless there has been an opportunity to test it through cross-examination, and that an opportunity to cross-examine evidence is generally not adequate unless a witness is made available who is competent to attest to its authenticity and veracity."¹² In requiring the Postal Service to provide a witness to stand for cross-examination on the factual material in the study, the Commission noted that "the witness that we are directing the Postal Service to make available need not attest to, or adopt, those portions of the Price Waterhouse Study that consist of analysis, conclusions, or recommendations."¹³ (Perhaps this was because the consultant was not a salaried employee of the Postal Service). The Commission further noted: "Included within the factual material that is to be sponsored is material that explains the design of the study and the methods used to gather data."¹⁴ The Commission also noted that some

¹¹ Docket No. R87-1, Order Directing Production of Postal Service Witness, issued August 14, 1987.

¹² Id. at 3-4.

¹³ Id. at 4.

¹⁴ Id.

nonfactual material in the study “would not appear to infringe upon the Postal Service’s prerogatives if sponsored.”¹⁵

We would note that the order required sponsorship when outside *consultant’s* studies were at issue, and when the Postal Service was not relying on the consultant’s ultimate recommendations. The exemptions of certain subjects as fit topics of cross-examination¹⁶ clearly should not extend to situations where salaried employees produced the library reference or where the Postal Service relies on the library reference. The logic of the decision (i.e., its reliance on accepted rules of evidence) would seem to dictate that when salaried employees have produced the library reference, or when the Postal Service relies on a library reference produced by anyone, it should have to sponsor a witness to stand for cross-examination on all information (including findings adverse to the litigation position of the Postal Service).

OCA’s only question about the order is whether it goes far enough. In recent proceedings, the Postal Service has employed consultants or contractors both to produce reports and to testify as witnesses, blurring the line between consultants and salaried employees. We would also note that frequently consultants are not “independent” consultants, hired to objectively evaluate material. In truth, consultants can be “hired guns,” directed to produce output conforming to a particular result, just the same as a salaried employee can have its work directed. We would recommend extending the provisions of the order to consultants’ work also, since there does not appear to be a meaningful difference between their work and salaried employee’s work.

¹⁵ Id.

¹⁶ Id.

OCA thus recommends that the Postal Service be required to provide a competent witness who can be cross-examined on all material it submits in the docket. If there exists a library reference containing a consultant's conclusions that are adverse to the Postal Service's position, the Postal Service's designated witness should be required at a minimum to give reasons why the consultant's recommendations were incorrect or not followed.¹⁷ But, we emphasize, requiring sponsorship even of material adverse to the Postal Service position does not require the Postal Service to adopt or defend that position. Sponsorship, properly understood, merely allows participants to ask questions about the information filed.

B. WHOM DOES ONE CROSS-EXAMINE?

The primary problem with regard to lack of sponsorship of library references is the same problem participants have when confronted with institutional responses to interrogatories – whom does one cross-examine at hearings? Some examples illustrate the problem.

1. Library Reference Sponsorship

OCA's Motion to Compel Responses to Interrogatory OCA/USPS-T32-57b, filed September 18, 1997, is an example of the Postal Service refusing to name a sponsor for an important library reference prepared by a consultant (indeed, the frequently-employed Price Waterhouse). OCA/USPS-T32-57 sought the following information:

OCA/USPS-T32-57. Please refer to LR H-226, "Qualitative Market Research - Prepaid Reply Mail Product Concept In-Depth

¹⁷ Alternatively, the Postal Service should be required to produce the consultant for cross-examination.

Interviews with Businesses - Final Report," ("report") dated May 2, 1997.

- a. Confirm that Price Waterhouse authored the report. If not confirmed, please explain.
- b. Does the Postal Service plan to introduce the report as part of its testimony in this docket? If not, why not? If so, who will sponsor it?
- c. Please supply all documents not already provided as part of LR H-226 relating to giving instructions or guidance for preparation of the report, including, but not limited to, instructions or guidance to the author for preparing the study methodology, for conducting the study, and for writing the report's conclusions.

LR H-226 is probative of issues in this case related to the Postal Service's Prepaid Reply Mail ("PRM") and Qualified Business Reply Mail ("QBRM") proposals. LR H-226 was filed in response to Presiding Officer's Information Request No. 1. LR H-226 may be critical evidence, because it is a study commissioned by the Postal Service to ascertain mailer interest in PRM. In short, OCA thinks the report shows the businesses sampled (current Business Reply Mail and Courtesy Envelope Mail users) have little or negative interest in PRM. This, in turn, is important because PRM seems to be the Postal Service's (pallid) response to the Commission's recommendations regarding Courtesy Envelope Mail ("CEM") in Docket No. MC95-1.

The Postal Service has taken the position with regard to OCA/USPS-T32-57b that "[t]he interrogatory is one which relates to litigation strategy, as opposed to the substantive issues in this proceeding."¹⁸ Litigation strategy is not the issue. What we

¹⁸ POR 1/20, n.9 at 6.

have here is a fairly damning study, not revealed in the Postal Service's initial submission to the Commission (but supplied in response to a POIR) that OCA needs to cross-examine someone about. And the public interest is best served if the parties can cross-examine the Postal Service "sponsor" about the report's conclusions (which are in truth nothing but summaries of the interviews, i.e., summaries of the factual material).

2. Sponsorship of Institutional Responses

Institutional responses to interrogatories pose a similar problem. For example, many of OCA's interrogatories concerning CEM were responded to by the Postal Service as an institution, redirected from witness Fronk.¹⁹ OCA/USPS-T32-61 asked a question of witness Fronk concerning potential bias in the report contained in LR H-226 because of the prefatory materials given to interviewees. The Postal Service suggested the answer was in the negative, but its explanation plainly requires probing. Whom will OCA probe on this issue? OCA/USPS-T32-70 asked witness Fronk about what seemed to be obviously contradictory statements in the report. In OCA's view, the interrogatory response provided institutionally is lacking. Again, who will stand for cross-examination on this issue?

These examples are the small tip of a very large iceberg. One need only review the numerous institutional responses in this proceeding to ascertain that many important substantive issues are addressed in interrogatory responses that have no "sponsorship."

¹⁹ See Responses of the United States Postal Service to OCA Interrogatories Redirected from Witness Fronk and Motion for Late Acceptance (OCA/USPS-T32-57a&c, 59-61, 63c, 64a-d&f, 70, 74a&b, 75, 78, 80, 81, 83, 84, 85a,c&d, 87, 88, 89b&c, 97a, 98a&c, 102b-e, 103), filed September 17, 1997.

3. "Ghost-Ship" Library References

Another problem with library references is that a fair number of them have merely been deposited in the Commission's docket room without any explanation for their purpose and being. OCA raised this issue in a Motion to Compel as to OCA/USPS-8, filed September 18, 1997. Interrogatory OCA/USPS-8 sought the following information:

OCA/USPS-8. Please refer to the following Postal Service library references:

H-2 - H-6	H-8	H-11
H-13 - H-24	H-27 - H-37	H-39 - H-47
H-50 - H-53	H-63 - H-70	H-84
H-87 - H-88	H-90 - H-103	H-123
H-127	H-129	H-145
H-177 - H-178	H-186	H-192 - H-193
H-196		

- a. For each of the above library references, please confirm that the library reference is not referred to in the testimony of any Postal Service witness in this docket. If you do not confirm, please provide a cross walk between each library reference and each portion of testimony that refers to the library reference.
- b. For each of above library references, please identify the witness sponsoring the library reference.
- c. For each of the above library references, please identify the witnesses that rely on the library reference.
- d. For each of the above library references, please identify the witnesses who contributed to the creation of the library reference. If a witness did not create the entire library reference, please identify the portions of the library reference created by the witness.

- e. For each of the above library references that was created in any part by contractors or consultants, please provide:
 - i. The statement of work under which the work was performed for the Postal Service.
 - ii. The name of the person(s) or firm that performed the work.
 - iii. Identification of the portions of the library reference prepared by the contractor or consultant.
- f. For each of the above library references that was created at least in part by Postal Service employees (no sponsoring witness), please provide:
 - i. The name of the department or office that produced the work.
 - ii. All written instructions or communications detailing the work to be performed.
 - iii. Identification of the portions of the library reference prepared by the Postal Service employees.

The Postal Service objected to answering the interrogatory. First, it argued that the interrogatory was not reasonably calculated to lead to the production of admissible evidence.²⁰ The Postal Service opined that the OCA appeared to seek a detailed roadmap of many of the library references, but that "such a roadmap is unlikely to have any value as evidence in this proceeding."²¹ And in its Opposition to OCA's Motion to

²⁰ Objection of United States Postal Service to OCA/USPS-8, filed July 28, 1997, at 1.

²¹ *Id.*

Compel,²² the Postal Service opined that OCA's efforts were "a misguided attempt to create a comprehensive matrix linking library references to witnesses."²³

OCA believes, however, that the roadmap is necessary as a means to ensure that it can evaluate the evidence contained in those references. As may be inferred from the interrogatory itself, OCA laboriously tried to construct its own "roadmap" through all the library references, in an effort to determine, *inter alia*, which library references were being referred to by Postal Service witnesses. We respectfully refer the Commission to Attachment A for the most recent roadmap to library references created by OCA in its efforts to make sense of the Postal Service Request. The Postal Service unjustly accused the OCA of seeking the information "on a lark." Attachment A, OCA believes, speaks for itself in terms of the effort OCA has gone through to comprehend the Postal Service's case.

The work which led to the creation of Attachment A also revealed the list of library references referred to in OCA/USPS-8, which appear not to have been referred to by any Postal Service witnesses. OCA/USPS-8 was filed as a means of determining how those library references fit into the Postal Service's overall Request, based on the assumption that the Postal Service intended them to have some probative value.

²² OCA Motion to Compel Response to Interrogatories OCA/USPS-T32-57b and OCA/USPS-8, Motion for Expedited Ruling as to OCA/USPS-8, and Motion for Late Acceptance, filed September 18, 1997.

²³ Opposition of United States Postal Service to OCA Motion to Compel Response to Interrogatories OCA/USPS-T32-57b et al., filed September 25, 1997, at 6.

Next, the Postal Service stated that the interrogatory was objectionable due to its questionable relevance to the issues in this case, and because it is overbroad. The Postal Service stated:²⁴

In many cases, Postal Service library references are produced solely as background information, or strictly in order to comply with documentation requirements imposed by the Commission's rules. As such, they need not be an integral part of the Postal Service's filing, no witness need sponsor or rely upon them, and the identity of their preparers, the extent of preparer contribution, and the other wide-ranging characteristics sought by the OCA have little demonstrable bearing on the issues in this case.

This is a puzzling rationale for an objection. It seems to say both that (1) background information is not important; and (2) that the Commission's documentation requirements are not important. We disagree with the Postal Service rationale.

As a test of the Postal Service's assertions, we randomly gathered six library references for which information was sought in OCA/USPS-8: H-2, H-6, H-8, H-192, H-193 and H-196.²⁵ H-2, "Cost and Revenue Analysis FY1996," presents, *inter alia*, a summary of revenues and costs for major service categories. H-6, "Base Year/Roll-Forward In Machine Readable Form," is self-explanatory. H-8, "Roll Forward Test Year Volume Variable Cost Footnotes," "contains reference citations for 'Rollforward Volume Variable Costs (Excluding PESSA)' development." H-192, "Rural Carrier Average Allowances Per Route," contains the documentation for the calculation of the average

²⁴ Id. at 1-2.

²⁵ H-196 was prepared pursuant to the Postal Service's Rule 54 obligations, and thus carries with it a long trail of legal baggage. For the purposes of brevity and simplicity we are not addressing this library reference in our analysis.

allowances on rural routes.²⁶ H-193, "Rural Letters/Flats Adjustment," "contains the documentation for the calculation of the percentage of Rural Carrier Cost System letters that will be moved into flats when generating rural cost distribution keys for these mail types."²⁷ On their faces, these library references seem to be an important part of the evidentiary presentation; we only ask for a little guidance in divining where they fit in and who will be able to answer questions on the material. Indeed, the lack of responsiveness by the Postal Service to this request makes answering the NOI questions 1 and 2 problematic

One value of the OCA/USPS-8 example is that it demonstrates the lack of rigorous controls on the Postal Service's evidentiary submissions. By being able to deposit information in the Commission's docket room without sponsorship, the Postal Service has insulated the material in those references from effective cross-examination. The time spent ferreting out this unsponsored material and then trying to determine where it all fits has left OCA with too little time to conduct inquiries about such references.

²⁶ "Rural carrier pay is based on time allowances given for delivering and collecting mail and other factors, such as the number of boxes on the route and the mileage on the route. These allowances are determined during an annual mail count. This program calculates the average weekly values for the variables used to determine the time allowances" H-192, at 3.

²⁷ H-193, at 1.

C. WHAT IS A "LIBRARY REFERENCE?"

The NOI also asks commenters to address whether material designated as library material has been done so appropriately.²⁸ We see this as a different issue than the issue of sponsorship, where our position is clear – *any* document submitted by a party, whatever it is called, should have a name attached to it so others can ask questions about the document in discovery and during hearings.

The issue of appropriate library reference designations is really a matter of judicial administration and docket management, e.g., is the material so voluminous that it is more convenient to be designated a library reference? As to proper designation as a library reference, the problem as we see it is that Rule 31(b) provides little or no guidance on the presentation of documentary testimony. In practice, parties designate documentary matter as exhibits, work papers, library references, or as direct testimony on an *ad hoc* basis. Often this seems to be done according to the individual testimonial style of witnesses. Some witnesses include as tables within their testimony what others include as exhibits. Some attach exhibits of modest complexity and length that in the hands of other witnesses turn into library references.

OCA thinks it would be hard to devise a hard and fast rule as to what constitutes an exhibit, work paper, or library reference. Size alone is not the issue. Another dimension to be considered is the degree of importance of the material. We do not want direct testimony cluttered with unimportant information. We *do* want clear road maps to such information, and clear explanations as to how such ancillary documents

²⁸ NOI at 2, question 1.

figure into witnesses' analyses. And, most importantly, we want clear sponsorship of all material submitted by any party.

D. THE NEED FOR ROAD MAPS TO LIBRARY REFERENCES

In considering whether to adopt special rules with regard to library references, the Commission should consider the context in which NOI No. 1 arose. This is without question the most complicated rate case in Commission history, made more so by the introduction of a revolutionary costing methodology and the Postal Service's fragmented and vague presentation of its case. Lately, and especially in this proceeding, we have observed that Postal Service witness presentations are highly fragmented, so that often one cannot assess proposed changes in a specific area without looking at a number of other witnesses' presentations. Individual witnesses testify only on small segments of a proposal, or on a specific issue (e.g., a particular kind of costing methodology) applicable to numerous proposals. In order to evaluate an individual proposal, one must often examine numerous library references, and at least several other witnesses' statements. In turn, each of those referred-to witness statements contains a new set of library references, as well as references to yet other witnesses' statements.

Ideally, one could formulate a rule that required the Postal Service to present its evidence not categorized by witnesses, but rather by subject matter. Then, all relevant evidence on a single topic would be grouped together; individual sections (e.g., costing methodology) would spell out the witness responsible for that subpart of the testimony.

Assuming that the Commission wants to retain the current system, wherein individual witnesses often testify on portions of multiple topics, while data and underlying documentation on individual topics may be found anywhere in the Postal Service's overall filing, then strict rules should apply concerning road maps to the data contained in library references.

Road maps are necessary because references to underlying documentation (such as library references) are often vague, requiring participants to use up valuable time during discovery merely to ascertain where certain evidence can be found. A good example of the fragmentation of evidence, and the lack of clear references, can be seen in the direct testimony of witness Daniels. Her testimony is unusually difficult to read. The main body of the testimony is sparse, and the supporting evidence is contained in numerous other places. The testimony refers to methodologies developed in proceedings as far back as R84-1,²⁹ and relies on cost information developed by other witnesses.³⁰

Witness Daniels provides cites to numerous library references, but often the references are vague,³¹ which necessitated interrogatories requesting specificity.³² OCA had to spend precious time during discovery to get accurate and clear references. See, e.g., Response of witness Daniel to OCA/USPS-T29-1, where witness Daniel provides voluminous cross-references omitted from her originally filed exhibits and appendices. She also notes numerous erroneous numbers from her testimony.

²⁹ E.g., lines 10-14, p.1 of Daniel's Direct Testimony.

³⁰ E.g., id. at lines 4-6, p. 2.

³¹ E.g., id. at lines 2-13, p. 4.

³² OCA/USPS-T29-1-3.

These vagueness problems are not isolated. For example, the Postal Service provided several data files in LR H-6 and H-7. Since the files were not identified, OCA staff had trouble locating the "real" base year data file, requiring OCA to expend precious time in discovery.³³ USPS Library Reference H-6 is a diskette that has been divided into 6 subdirectories. The names of the 6 subdirectories are: Ps410d01, Ps420301, Ps460d03\ Psmand01 and Psmand03. Each of the 6 subdirectories is further subdivided into one or more subdirectories.

The documentation provided with H-6 consists of a mere paragraph:³⁴

"This library reference contains one diskette that includes the cost matrices for the following years:

Base Year 1996
Fiscal Year 1997 Before Volume and Workyear Mix Adjustments
Fiscal Year 1997 After Volume and Before Workyear Mix Adjustment
Fiscal Year 1997 After Volume and After Workyear Mix Adjustment
Test Year 1998 Current Rates Before Workyear Mix Adjustment
Test Year 1998 Current Rates After Workyear Mix Adjustment
Test Year 1998 Proposed Rates Before Workyear Mix Adjustment
Test Year 1998 Proposed Rates After Workyear Mix Adjustment
The file "FY96to98.zip" needs to be uncompressed using the PKUNZIP utility."

In looking for the Base Year 1996 data, it was not evident which file was the appropriate one. For example, the subdirectory Ps410d01\Fy96mods contained one

³³ See interrogatory OCA/USPS-T5-4 and the response thereto.

³⁴ As will be seen in discussion on the next page, the listing in this paragraph provides no explicit linkage to the many subdirectories and files therein. This bare listing does not begin to approach the type of cross-referencing necessary to guide an intervenor step-by-step to Alexandrovich's Workpaper A.

file "i.dat." "I.dat" is a very large data file. The information appeared to match the base year data used by USPS witness Alexandrovich in preparing USPS-T-5, Workpaper A. However, some differences were noted. Therefore, it was necessary to continue looking for the correct file.

In USPS library reference H-6, the subdirectory Ps420301\Fy96mods contained three files: "A.dat," "B.dat," and "C.dat." "B.dat" seemed an equally likely base year data file. However, there were differences in the "B.dat" and the "I.dat" file. Both "B.dat" and "I.dat" differed from USPS witness Alexandrovich's Workpaper A in several respects.

USPS library reference H-7 contained a file named "I.dat." This file also differed from USPS-T-5, Workpaper A. OCA interrogatories to USPS witness Alexandrovich did not resolve the problem.³⁵ It was not until USPS witness Patelunas responded to redirected interrogatories, OCA/USPS-T5-3 and 4, that the confusion was alleviated. The last two sentences in witness Patelunas' response to OCA/USPS-T5-3 were: "The original source CD ROM that was provided as USPS Library Reference [no number given] should be reviewed for the amounts in I.DAT; it is possible that a copy made from the CD ROM has been mislabeled." Many hours of OCA staff time were wasted attempting to match the library reference files (in H-6 and H-7) to Alexandrovich's workpaper. The roadmap contemplated by OCA would have prevented this inexcusable waste of our time.

³⁵ See OCA/USPS-T5-1.

A related problem is incompleteness of explanation about what is contained in a library reference. One example can be found in interrogatory OCA/USPS-T12-35, and the response thereto. Briefly put, H-146 described six computer programs that were not discussed in the Postal Service's direct testimony. Interrogatory OCA/USPS-T12-35 was necessary to elicit information concerning the objectives and uses of such programs, and how the program may have changed over time. The Postal Service's failure to state clearly³⁶ (without having the information extracted by OCA) that the outputs of these programs are used in the testimony and workpapers of witness Alexandrovich demonstrates how the Postal Service misuses the opportunity to file what is, in reality, evidence, as matter buried within a library reference.

LR H-222, Supplementary Data Files for Post Office Box Studies, serves as another example of this problem. This library reference contains two files: DSFAUG97.PRN and BOXRENT.PRN. The latter file was created by merging two other data files, BOXESAUG.DATA and RENT.DATA.³⁷ The program used to merge the BOXESAUG.DATA and RENT.DATA files and to produce BOXRENT.PRN was omitted from the library reference, as were the BOXESAUG.DATA and RENT.DATA files themselves. The Postal Service's failure to include necessary programs and files in this library reference, unfortunately, is all too common.

It may be that Postal Service witnesses who are thoroughly familiar with their specialized areas of expertise do not understand why participants cannot always follow

³⁶ Either as part of the library reference introduction or the notice for filing the library reference.

³⁷ See H-222, at 2.

the direct testimony. This is natural in any profession, where certain assumptions are understood, and where the professional is thoroughly familiar with all the data with which he or she has spent much time. But Postal Service direct testimony must be, in part, a teaching device. Facts and analytical devices that are well understood to the witness from years of experience may need to be carefully explained step-by-step to persons coming fresh to the data. Of course, participants to this proceeding are often represented by experienced lawyers and consultants. Nonetheless, most cases present novel analyses and proposals – this case is unusual in its divergence from past methodologies. The Commission – the headmaster, as it were, of this educational institution – should seek to ensure that the teachers are providing clear guidance on this new subject matter.

IV. RECOMMENDATIONS

A. IDENTIFYING EVIDENCE AND WITNESSES

Rule 53 states that simultaneously with the filing of its formal request, “the Postal Service shall file all of the prepared direct evidence upon which it proposes to rely in the proceeding” OCA recommends that Rule 53 be amended to require the Postal Service to identify, at the time the Request is filed, the evidence on which it intends to rely, and the witness whose responsibility it will be to answer questions (during discovery and at the hearing) concerning all filed material (and not just that upon which it intends to rely). This should not be a difficult burden on the Postal Service. Clearly it must know, when library references and exhibits are assembled, who within the Postal

Service produced the data or authored a report contained in such references and exhibits. If the person responsible for producing data or authoring a report is not a witness, then it should be required that the witness designated by the Postal Service be educated so that the witness can answer interrogatories and respond to questions during hearings.

B. DESIGNATION OF WITNESSES FOR INSTITUTIONAL RESPONSES

The related problem of determining who will stand for cross-examination on institutional responses can be easily solved. Rule 25 could be amended by adding a provision that when institutional responses are provided, the responding party shall indicate by name who will stand for any cross-examination as to the response. This is consistent with the practice in POIRs. For example, in POIR No. 4, issued September 26, 1997, the Request reads: "In order to facilitate inclusion of the requested material in the evidentiary record, the Postal Service is to have a witness attest to the accuracy of the answers and be prepared to explain to the extent necessary the basis for the answers at our hearings."

This rule would apply to all parties. In cases where the indicated witness is not one of the witnesses upon whom the party was planning to rely to present testimony on its direct case, the Commission could simply set aside time at some point in the hearings for scheduling of these ancillary witnesses. We would point out that this approach is consistent with Rule 24(d)(6), which provides that at prehearing conferences parties are supposed to resolve issues about "[d]isclosure of the number,

identity and qualifications of witnesses, and the nature of their testimony” This disclosure requirement should be a continuing one throughout the discovery process.

C. PROVIDING ADEQUATE ROADMAPS

Given the fragmented nature of recent Postal Service Requests, the Commission should require that all references in direct testimony to exhibits, workpapers, and library references, etc., clearly indicate the page and line of a reference. Further, the direct testimony should clearly spell out all calculations that were made to arrive at a conclusion dependent on quantifiable results. Testimony not in substantial compliance with this rule should be subject to being stricken from the record, or alternatively, the filing of the Request should be postdated to the time when the defective direct testimony is repaired.

In Docket No. R94-1 OCA proposed a model for the linkage of library references to record evidence.³⁸ Attachment 1 of that pleading proposed four rules for the thorough identification and linkage of library references to record evidence. (OCA has attached that same document to the instant response to the NOI, renaming it “Attachment B.”) Attachment 2 of the Docket R94-1 proposal consisted of a sample notice of a filing of a library reference supporting the testimony of a witness. A copy of that sample notice, designated “Attachment C,” is included with this response.

³⁸ Office of the Consumer Advocate Motion for Special Rules of Practice for Filing Library References, April 1, 1994.

D. SURVEYS, STUDIES AND REPORTS

Separate issues exist when library references (or exhibits attached to testimony) are submitted that contain surveys, studies and reports (hereinafter, "surveys"). The basic problem with surveys is that all too often meaningful examination requires more than the summary of a survey. Meaningful examination of surveys often requires probing survey protocols, interviewer notes, survey designs, and the raw data collected. Generally speaking, collections of data must be interpreted, and often the result will depend on who is interpreting the data.

Surveys prepared for use in litigation must be examined with special rigor. Unlike business records kept in the regular course of business (upon whose accuracy and objectivity a business must rely to conduct its business), surveys prepared for litigation may be prepared with a specific advocacy goal in mind, as pointed out in our comments to the Commission in Docket No. RM97-2 (which we incorporate by reference). We note here for emphasis, however, that Federal Rule of Evidence 803(6) supports the notion that statistical material prepared for litigation is inherently not as trustworthy as, for example, data compilations made in the regular conduct of business.³⁹ (That rule provides an exception to the hearsay rule for "records of regularly conducted activity.")

Thus, OCA recommends that *all* data collected pursuant to a survey be submitted with the participant's initial filing of its direct case (and not just "upon

³⁹ OCA notes that hearsay is admissible in administrative proceedings, an issue which is beyond dispute. See *Richardson v. Perales*, 402 U.S. 389 (1971). The point of this discussion, however, is that courts recognize that material prepared expressly for litigation is not as trustworthy.

request”⁴⁰), as the Federal Maritime Commission requires in rate cases.⁴¹ For the Postal Service, this data would have to be submitted at the time of its initial filing. For other participants, the data would have to be submitted with the filing of the participant's case-in-chief. Effective cross-examination of market research such as reported survey results requires that all participants have access to the raw data underlying the submission. At a minimum, some mechanism for third-party auditing of raw data should be established.

OCA's recommendation is consistent with the major modifications made to the Federal Rules of Civil Procedure's discovery rules in 1993, which now require that a party to litigation shall, without awaiting a discovery request, provide to other parties, *inter alia*, “A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings [.]”⁴² OCA believes that merely requiring that raw data be filed “upon request” has proved unworkable. Parties usually request access to such data, and the discovery process has been slowed by tardy responses to such requests. We note that the 1993 modifications to the Federal Rules of Civil Procedure had the aim of expediting the discovery process by requiring that more information be supplied at the initial stages of litigation. As the comments to the 1993 revisions note: “A major purpose of the

⁴⁰ See, e.g., Rule 31(k)(1).

⁴¹ See 16 C.F.R. §502.67(a)(2).

⁴² Fed. R. Civ. Proc. 26(a)(1)(B).

revision is to accelerate the exchange of basic information about the case and to eliminate the paper work involved in requesting such information”⁴³

Moreover, OCA recommends adoption of a rule stipulating that survey results unsupported by actual data are entitled to little weight. This was the position taken by the Commission in Docket No. MC93-1,⁴⁴ and is the usual result reached in other fora. Indeed, if no one—not even a disinterested third party—has had an opportunity to thoroughly delve into raw data, it is difficult to see how conclusions based on such data can be considered reliable.

Our recommendations have precedent in Commission rulings. In Docket No. MC93-1, the Postal Service used market research to estimate volume for a new service, Bulk Small Parcel Service (“BSPS”). In refusing to rely on any quantitative results of that market research, the Commission referred to “parties’ rights to verify and test survey results offered in evidence” and “to a party’s ability to replicate and test the results of a statistical study”⁴⁵ The Commission held that parties have a right to access to raw data or to “a satisfactory substitute for direct access to raw input data”⁴⁶ As described above (and as recognized in the BSPS Opinion itself),⁴⁷ this is the standard universally applied by courts and regulatory agencies. As it did in the BSPS case, the Commission should, by rule, place the Postal Service and other parties on notice that “the Service cannot realistically expect to base the demand evidence it

⁴³ 1993 comments to Fed. R. Civ. Proc. 26.

⁴⁴ PRC Op. 93-1 at 15-20.

⁴⁵ Id. at 17-18.

⁴⁶ Id. at 18.

⁴⁷ Id. at 17.

presents to the Commission in support of newly-proposed services on underlying data that cannot be tested and verified."⁴⁸

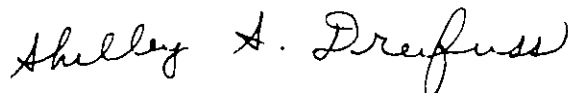
E. ADMINISTRATIVE RECOMMENDATION

An administrative change would facilitate obtaining information from all parties. When a library reference is filed, the party filing such reference should be required not only to supply the statistical information in diskette form, but also the accompanying text in this form.

V. CONCLUSION

Improving the usefulness of information contained in library references is a very useful goal. Given the complexity of recent Commission proceedings, firm rules and guidelines are needed to enable the parties quickly and easily to ascertain the importance of library references and analyze them. Once having analyzed them, the parties should know to whom interrogatories should be directed. If the discovery process does not narrow the issues, the parties need to be able to direct questions to a named witness regarding library references and institutional responses.

Respectfully submitted,



Shelley S. Dreifuss
Attorney

⁴⁸ Id. at 10.

Testimony	Referenced Testimony	LR	WP	Exhibit	Appendices
USPS-T-05	T-13			USPS-5B	
USPS-T-05	T-16			USPS-5C	
USPS-T-05	T-17				
USPS-T-05	T-19				
USPS-T-05	T-20				
USPS-T-05	T-21				
USPS-T-05	T-41				
USPS-T-06	T-37				
USPS-T-06	T-38				
USPS-T-06	T-39				
USPS-T-07	T-6		WPs 1-3		
USPS-T-07	T-8				
USPS-T-09	T-08				
USPS-T-10					
USPS-T-11*	T-31				
USPS-T-11*	T-41				
USPS-T-15	T-30				
USPS-T-18			WPs 1-6		
USPS-T-21				USPS-21B	
USPS-T-22	T-40				
USPS-T-23				USPS-T-23D	
USPS-T-27	T-32			USPS-27B	Appendix B
USPS-T-27	T-25			USPS-27C	
USPS-T-27				USPS-27D	
USPS-T-27				USPS-27E	
USPS-T-27				USPS-27F	
USPS-T-27				Exhibit A-I	App A, B
USPS-T-28	T-05				
USPS-T-28	T-29				
USPS-T-30	T-6			USPS-30A - G	
USPS-T-30	T-8			USPS-41B	
USPS-T-30	T-11				
USPS-T-30	T-41				
USPS-T-30	T-21				
USPS-T-30	T-31				
USPS-T-30	T-04				
USPS-T-30	T-36				
USPS-T-30	T-38				
USPS-T-30	T-39				

USPS-T-30	T-40				
USPS-T-31	T-08				
USPS-T-31	T-15				
USPS-T-32	T-14				
USPS-T-33	T-09				
USPS-T-33	T-15				
USPS-T-33	T-42				
USPS-T-33	T-22				
USPS-T-33	T-40				
USPS-T-33	T-32				
USPS-T-33	T-39				
USPS-T-34	T-29				
USPS-T-34	T-30				
USPS-T-34	T-35				
USPS-T-34	T-36				
USPS-T-35	T-34		WPs A-M		
USPS-T-36	T-30				
USPS-T-36	T-20				
USPS-T-36			WPs 1-3		
USPS-T-37	T-29				
USPS-T-37	T-33				
USPS-T-37	T-42				
USPS-T-38	T-22		WP-BPM30		
USPS-T-38	T-28		WP-BPM20 - 25		
USPS-T-38	T-30		WP-SR4 - 7		
USPS-T-38			WP-LIB1		
USPS-T-38			WP-LIB4 - 11		
USPS-T-39	T-40				
USPS-T-39	T-24				
USPS-T-39	T-30				
USPS-T-41*	T-21				
USPS-T-41*	T-15				
USPS-T-41*	T-05				
USPS-T-42					App A
USPS-T-05	T-12	H-001	WP A-B	USPS-5A	
USPS-T-09	T-15	H-001	USPS-T-10 WPs	Exhibit 9A- 9Q	
USPS-T-12	T-14	H-001			
USPS-T-16*		H-001	USPS-T- 15,WP E	USPS-13B	Appendix III
USPS-T-17*		H-001			
USPS-T-19*		H-001	w/s 1 - 9	USPS-19A	
USPS-T-22	T-21	H-001	USPS-T-5, WP B		App A - C

Attachment A to Response to NOI 1

USPS-T-07		H-007			
USPS-T-20		H-009		Exhibit 2	
USPS-T-09	T-10	H-010			
USPS-T-09	T-30	H-012			
USPS-T-15	T-6	H-012	WP A-G	USPS-15A-J	Appendix A-D
USPS-T-03*		H-025			
USPS-T-01*		H-038			
USPS-T-12	T-04	H-048			
USPS-T-12		H-049			
USPS-T-01*		H-054			
USPS-T-01*		H-055			
USPS-T-01*		H-056			
USPS-T-01*		H-057			
USPS-T-01*		H-058			
USPS-T-01*		H-059			
USPS-T-02*	T-41	H-060			
USPS-T-02*		H-061			
USPS-T-02*		H-062			
USPS-T-03*		H-071			
USPS-T-01*		H-072			
USPS-T-01*		H-073			
USPS-T-01*		H-074			
USPS-T-01*		H-075			
USPS-T-01*		H-076			
USPS-T-16*		H-077			Appendix IV
USPS-T-25APP		H-077			
USPS-T-26		H-077			
USPS-T-29	T-36	H-077			
USPS-T-02*		H-078			
USPS-T-02*		H-079			
USPS-T-02*		H-080			
USPS-T-02*		H-081			
USPS-T-02*		H-082			
USPS-T-02*		H-083			
USPS-T-02*		H-085			
USPS-T-15		H-086			
USPS-T-01*		H-089			
USPS-T-03*		H-089			
USPS-T-02*		H-104			
USPS-T-25	T-32	H-105		USPS-25A	APP I-V
USPS-T-26		H-105			
USPS-T-29	T-18	H-105	T-38, WP I.H.	USPS-29A - F	Appendix I- VI
USPS-T-25	T-14	H-106			
USPS-T-26		H-106			

Attachment A to Response to NOI 1

USPS-T-29	T-14	H-106			
USPS-T-39	T-27	H-107			
USPS-T-40	T-22	H-107	WP - 1, 2		
USPS-T-28	T-36	H-108			
USPS-T-29		H-109			
USPS-T-40	T-33	H-110			
USPS-T-34	T-19	H-111			
USPS-T-36	T-4	H-111	USPS-T-15 wp's	USPS-T-29C	
USPS-T-32	T-30	H-112		USPS-T-32A	
USPS-T-23	T-32	H-113		USPS-T-23B	
USPS-T-25APP		H-113			
USPS-T-26		H-113			
USPS-T-29	T-32	H-113			
USPS-T-22	T-33	H-114			
USPS-T-10		H-115			
USPS-T-09	T-06	H-116			
USPS-T-01		H-117			
USPS-T-33		H-118			
USPS-T-29		H-119			
USPS-T-08	T-33	H-120	Workpaper A-D		Append. A,B
USPS-T-08		H-121			
USPS-T-08		H-122			
USPS-T-08		H-124			
USPS-T-08		H-125			
USPS-T-09	T-07	H-126			
USPS-T-23	T-25	H-128		USPS-T-23A	
USPS-T-25APP	T-10	H-128		USPS-T-10B	Appendix I- V
USPS-T-26		H-128			
USPS-T-29	T-25	H-128			
USPS-T-23	T-27	H-130		USPS-T-23C	
USPS-T-25	T-04	H-130			
USPS-T-29	T-26	H-130			
USPS-T-28		H-131			
USPS-T-29		H-131			
USPS-T-25		H-132			
USPS-T-28		H-132			
USPS-T-29		H-132			
USPS-T-29		H-133			
USPS-T-26	T-04	H-134		USPS-T- 26A-J	
USPS-T-16*	T-37	H-135	USPS-T-37, WP I.A, I.F	USPS-16B	Appendix II
USPS-T-25		H-135			

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USPS-T-28		H-135			
USPS-T-29		H-135			
USPS-T-37	T-16	H-135	WP I-IV		
USPS-T-17*	T-5	H-136	USPS-T-5, WP-B		
USPS-T-29		H-136			
USPS-T-17*	T-11	H-137			
USPS-T-17*		H-138			
USPS-T-17*		H-139			
USPS-T-17*		H-140			
USPS-T-17*		H-141			
USPS-T-17*		H-142			
USPS-T-17*		H-143			
USPS-T-28	T-37	H-144		USPS-33A-J	USPS-T-29, Appendix V
USPS-T-04		H-146			
USPS-T-12		H-146			
USPS-T-25APP		H-146			
USPS-T-26		H-146			
USPS-T-28	T-16	H-146			
USPS-T-04	T-14	H-147			
USPS-T-14		H-147			
USPS-T-14	T-12	H-148			
USPS-T-14		H-149			
USPS-T-20		H-150	WPs A-F	Exhibit 1	
USPS-T-19*		H-151		USPS-19D	
USPS-T-19*		H-152		USPS-19E	
USPS-T-19*		H-153		USPS-19B	
USPS-T-19*		H-154			
USPS-T-19*		H-155			
USPS-T-19*		H-156			
USPS-T-19*		H-157			
USPS-T-19*		H-158			
USPS-T-19*		H-159			
USPS-T-19*		H-160		USPS-19C	
USPS-T-19		H-161			
USPS-T-32	T-42	H-162		USPS-T-32B	
USPS-T-37	T-19	H-163			
USPS-T-38	T-29	H-163	WP-BPM31	EXHIBIT A	
USPS-T-31	T-06	H-164		EXHIBIT 1	
USPS-T-31	T-07	H-165		EXHIBIT 2	
USPS-T-33	T-06	H-166	USPS-T-32, WP J		
USPS-T-40		H-166			
USPS-T-21		H-167		USPS-21A	
USPS-T-21		H-167			

USPS-T-32		H-168			
USPS-T-26		H-169			
USPS-T-41*	T-11	H-170	workpapers	USPS-41A	
USPS-T-06	T-7	H-171	WP 1	USPS-6A	Technical Appendix
USPS-T-06	T-8	H-172	WP 2		Thress Tech. Appendix
USPS-T-36	T-29	H-172	WP-3		
USPS-T-06	T-32	H-173	Thress wp1		
USPS-T-06	T-33	H-174	Thress wp2		
USPS-T-06	T-36	H-175	Thress wp3		
USPS-T-07		H-175			
USPS-T-16*	T-05	H-176	USPS-T-5, WP B	USPS-16A	Appendix I
USPS-T-27	T-39	H-179		USPS-27A	Appendix A
USPS-T-32	T-39	H-180	WPs I-III		
USPS-T-13		H-181	WPs 1-7	Exhibit A-B	
USPS-T-36	T-26	H-182	WP 1		
USPS-T-41*	T-17	H-183		USPS-6A	
USPS-T-41*	T-14	H-184	USPS-T-15, WP E	USPS-41C	
USPS-T-25		H-185			
USPS-T-26		H-185			
USPS-T-32	T-23	H-187	WP I-III	USPS-T-29C	USPS-T-42, APP A
USPS-T-33	T-30	H-187	USPS-T-15 WP G	USPS-33A-R	USPS-T-15, APP. D
USPS-T-36	T-28	H-187	WP 2		
USPS-T-37	T-28	H-187			
USPS-T-38	T-40	H-187	WP-BPM18		
USPS-T-39	T-32	H-187	W/P 5		
USPS-T-40		H-187			
USPS-T-24		H-188			
USPS-T-17*		H-189			
USPS-T-26		H-190			
USPS-T-34	T-26	H-190			
USPS-T-02		H-191			
USPS-T-32	T-13	H-194			
USPS-T-26		H-195			
USPS-T-29	T-38	H-195			
USPS-T-37		H-197			
USPS-T-41*	T-13	H-198	USPS-T-5, WP-B	USPS-41B	
USPS-T-41		H-199			
USPS-T-32	T-39	H-200			

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USPS-T-05`		H-201			
USPS-T-36`		H-202			
USPS-T-08`		H-203			
USPS-T-33`		H-204			
USPS-T-34`		H-205			
USPS-T-35`		H-205			
USPS-T-39`		H-206			
USPS-T-40`		H-207			
USPS-T-38`		H-208			
USPS-T-32`		H-209			
USPS-T-23`		H-210			
USPS-T-25`		H-211			
USPS-T-18`		H-212			
USPS-T-27`		H-213			
USPS-T-30`		H-214			
USPS-T-24#		H-215			
ps#		H-216			
USPS-T-12#		H-217			
USPS-T-12#		H-218			
		H-219			
		H-220			
		H-221			
USPS-T-24#		H-222			
USPS-T-05#		H-223			
USPS-T-14#		H-224			
USPS-T-17#		H-225			
USPS-T-32#		H-226			
USPS-T-30#		H-227			
		H-228			
USPS-T-33#		H-229			
USPS-T-12#		H-230			
		H-231			
PS#		H-232			
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		H-234			
		H-235			
		H-236			
		H-237			
		H-238			
		H-239			
PS#		H-240			
PS#		H-241			
		H-242			
		H-243			
		H-244			
USPS-T-19#		H-245			

		H-246			
USPS-T-22#		H-247			
USPS-T-12#		H-248			
USPS-T-41#		H-249			
USPS-T-41#		H-250			
USPS-T-41#		H-251			
USPS-T-41#		H-252			
		H-253			
USPS-T-24#		H-254			
		H-255			
		H-256			
		H-257			
		H-258			
USPS-T-14#		H-259			
USPS-T-12#		H-260			
USPS-T-20#		H-261			
USPS-T-12#		H-262			
		H-263			
		H-264			
		H-265			
USPS-T-24#		H-266			
		H-267			
USPS-T-39#		H-268			
		H-269			
USPS-T-12#		H-270			
		H-271			
USPS-T-12#		H-272			
USPS-T-40#		H-273			
USPS-T-24#		H-274			
USPS-T-15#		H-275			
USPS-T-37#		H-276			
USPS-T-12#		H-277			
USPS-T-24#		H-278			
		H-279			
USPS-T-24#		H-280			
		H-281			

* WAS NOT ELECTRONIC

` FROM THE DOCKETS DATA BASE

#FROM NOTICE OF LIB REF FILING AND LOOKUP TO CITED INTERROGATORY RESPONSES.

RULES CONCERNING EFFICIENT EXCHANGE OF INFORMATION

1. Notice of filing of library references

When a library reference is filed, the party filing it shall send notice to the service list that a library reference has been filed. This notice shall provide the following information regarding its contents:

- a. The name of the witness it supports (if applicable).
- b. The specific testimony supported (if applicable).
- c. Brief reason for filing the library reference (e.g., in response to an interrogatory, a Presiding Officer Request, technical conference issues, etc.)
- d. General description of the contents of the library reference.

2. Summary and source information to be provided, beginning on the first page of the library reference. (If the library reference is a computer diskette or tape, this should be part of the documentation that accompanies the library reference.)

- a. A brief description of the library reference including the information required by 1.a.-1.d., above. For example, a copy of the notice of filing the library reference itself would satisfy this requirement.
- b. List of witnesses providing testimony for this intervenor that rely upon this library reference. For each of the witnesses that rely on this library reference, provide citations to the portions of their testimony, interrogatory responses, exhibits, workpapers, or other library references where this (new) library reference is referenced or relied upon.
- c. List of other library references directly linked to this one. For example one library reference could be data used by a computer program listed in another library reference.
- d. Provide the source of the library reference. If the library reference is in the form of a diskette, then a copy of the above information should also appear in a README file on the diskette (this is in addition to a hard copy of README to accompany the diskette). This would not generally be a burdensome requirement. In most cases, it would take up only one page. In rare situations that would require several pages it would be even more critical that it exist.

3. As part of the witnesses' testimony, a list of all library references used by or prepared by the witness in testimony, exhibits, interrogatory responses, or workpapers. This shall be filed at the time that the testimony is filed with the commission and updated as necessary whenever additional library references are filed. It should fit on a single page following the table of contents.

4. If the library reference consists of one or more diskettes, each diskette must contain a README file containing all information above, and include any additional technical information required to use the diskette. Putting a README file on a diskette means copying text from the word processor that created the hard copy documentation onto the diskette in ASCII format.

[Facsimile of]:

REMAND WITNESS NOTICE
OF FILING OF LIBRARY REFERENCES
(FEBRUARY 25, 1994)

The Postal Rate Commission's Remand Witness hereby gives notice of the filing today of three library references. These library references are described below:

Witness: Fallaw Sowell

Testimony: REM-T-1

Reference ID: LR-REM- 1

Purpose: This library reference presents backup materials for witness Sowell's testimony.

Description: This is a complete listing of the SAS and FORTRAN programs used to estimate attributable access costs in REM-T-1.

Reference ID: LR-REM-2

Purpose: This library reference presents backup materials for witness Sowell's testimony.

Description: This is a copy of the documentation for GQOPT/PC version 6.0. Optimization routines from this package are used in the FORTRAN programs of LR-REM-1.


Reference ID: LR-REM-3

Purpose: This library reference presents backup materials for witness Sowell's testimony.

Description: This diskette library reference contains all programs of LR-REM-1 and the ASCII data files produced by the SAS program "maketext".

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.


SHELLEY S. DREIFUSS
Attorney

Washington, D.C. 20268-0001
October 3, 1997